

**MINUTES OF THE PUBLIC HEARING
ON THE LAKE COUNTY SUBDIVISION REGULATION CHANGES
August 26, 2008**

The Lake County Planning Commission hereby finds and determines that all formal actions were taken in an open meeting of this Planning Commission and that all the deliberations of the Planning Commission and its committees, if any, which resulted in formal actions, were taken in meetings open to the public in full compliance with applicable legal requirements, including Section 121.22 of the Ohio Revised Code.

Chairman Siegel called the meeting to order at 6:30 p.m.

ROLL CALL

The following members were present: Messrs. Adams, Brotzman, Morse, Siegel, Smith (alt. for R. Sines), Zondag, and Mmes. Hausch and Pesec. Staff present: Messrs. Webster, Radachy, and Ms. Myers.

Mr. Webster read the Notice of Public Hearing that was posted in the News Herald on July 27, 2008 and August 10, 2008:

Notice of public hearing is hereby given to amend the Lake County, Ohio Subdivision Regulations for the unincorporated areas of Lake County to be held at 6:30 p.m. on August 26, 2008 at 125 East Erie Street, Painesville, Ohio in accordance with Sections 711.10 and 711.101 of the Ohio Revised Code to consider amendments to the Lake County Subdivision Regulations.

Such amendments pertain to revisions to Article I, Section 4; Article III, Section 10 B; Article IV; and Article V.

These are on file in the Lake County Planning Commission office, 125 East Erie Street, Painesville, Ohio, open 8:00 a.m. to 4:30 p.m., Monday thru Friday, (except holidays) or at www.lakecountyohio.gov/planning.

Walter R. Siegel, Chairman
Darrell C. Webster, Secretary
July 27, 2008
August 10, 2008

Mr. Webster explained the proposed changes to the Lake County Subdivision Regulations (the Regulations) were available to the public for review for thirty (30) days. The township trustees have also been notified. The purpose for the changes was to upgrade in areas that needed to meet new standards and new requirements.

Mr. Radachy, Senior Planner was asked to explain the following changes:

- A new section, Article I, Section 4K, stating the developer shall put the roads into the right-of-way. Other counties already have this.
- Article III, Section 10B adds language to require a common access driveway for lot splits.
- Article IV deals with design standards for roads: How big the roads are, general right-of-

way width and performance of the subplot rules and requirements. There is new language for common access driveways, which was discussed in length by the Commission a couple months ago. This sets some rules for us to use with common access driveways and lot splits for some cases and major subdivision design standards.

- Article V gives general requirements for improvements including our surety bonds and general specifications for type of concrete, width of roads, street forces, some items about individual wells and utility stormwater standards.

Mr. Radachy stated the office had received written comments. The first was from Concord Township:

Dear Mr. Webster:

On behalf of Concord Township the Trustees are unanimous in expressing their concerns with the Proposed Lake County Subdivision Regulation Change, dated June 4, 2008. Our specific concerns are found in the enclosure to this letter.

We hope that you will accept our concerns and assist us in continuing to preserve the local rights of the Township government. (Signed by the Trustees.)

Mr. Radachy continued saying Concord Township submitted recommended revisions to the Proposed Lake County Subdivision Regulations Changes (dated June 4, 2008) as follows and stating “TOWNSHIPS HAVE LOST SOME OF THEIR AUTHORITY!!!”

Page 16, Section 5, Sidewalks: *Omit entire section 5 or omit paragraph a.*

At the Chairman’s request, Mr. Radachy read Section 5a from the Regulations.

Page 16, Section 6, Street and Pedestrian Way Lighting – *Planning Commission may require subdivider to install street lights! Recommend removal of this requirement. Township wants to maintain control over approval/denial of street lights within a subdivision.*

Page 4, Section 4, Item A, Storm Sewers and Storm Water Drainage – *Township approval of “easements of adequate width” has been eliminated. Does this remove the responsibility of reviewing authority of the Township? Clarification needed in text.*

Mr. Radachy read the following from the Regulation changes at the Chairman’s request:

Article V, Section 4, Item A. Storm Sewers and Storm Water Drainage – A drainage system designed, constructed and maintained to provide positive drainage shall be required in the subdivision. Where an adequate public storm sewer main is available at the plat boundary, the subdivider shall construct a storm sewer system and connect with such storm sewer main. If such storm sewer systems are not accessible, adequate storm water drainage shall be provided to natural drainage channels with easements of adequate width as determined by the County Engineer ~~and approved by the Township Trustees concerned, and the Commission.~~ Where drainage ditches, drainage swales, or storm sewers cross

land not in the dedicated right-of-way, an appropriate easement shall be given to the ~~Township Trustees~~ **to the proper authority** for such drainage purposes.

Mr. Radachy said a comment from the Prosecutor's office stated that "proper authority" should be changed to a pre-determined party. This is being changed because it did not give local service drainage easements given to homeowners associations a say. This way everyone would have the opportunity to speak on such an easement.

Page 8, Section 8, Landscaping – *Township approval of a tree plan has been eliminated, but a Township may submit comments! The Township wants more reviewing authority.*

Mr. Radachy read the following from the Regulation changes as requested:

Article V, Section 8, Landscaping - A. Street trees may be planted in the public street rights-of-way not less than four (4) feet from any sidewalk or curb and spaced not more than fifty (50) feet apart. However, at street intersections, trees shall be located at least twenty (20) feet from the intersection of the street right-of-way lines. ***A master tree plan will be required to be filed with the improvement plans if street trees are used.***

Trees shall not be of the following or any other brittle wood species or species subject to extreme vulnerability from insects or diseases: Elm, Willow, Poplar, Box Elder, Soft Maple and Hackberry. All trees shall be a diameter of not less than two (2) inches measured at six (6) inches above ground level, and the developer shall furnish certification to the County Engineer that said trees are state inspected.

All trees shall be maintained until established and all trees not in a vigorous growing condition after one (1) year shall be replaced by the developer.

At the discretion of the Commission, a master tree plan may be ~~recorded~~ ***filed*** with the Township ~~for their approval~~, and they may make their comments to the Commission.—***If street trees are to be used, then the Planning Commission will require a master tree plan and it will be filed with the Planning Commission and the Township. The Township may submit comments to the Planning Commission.***

~~The developer may, if it is acceptable to the Township, supply the funds necessary for the Township to purchase and plant trees within the subdivision.~~

B. All landscape islands or other landscape facilities that are placed in the right-of-way shall be in an easement with ownership and maintenance of the easement stated on the plat.

C. All subdivision landscaping and/or signs that are placed onto private property and maintained by another individual or group shall be placed into an easement with ownership and maintenance of the easement stated on the plat.

Mr. Radachy stated that the staff had met with the Home Builders Association (HBA) about a month ago and they expressed the following comments on the Regulations changes:

1. *Fills shall be compacted in eight-inch lifts to a density that is appropriate for the intended use. That density shall be determined by laboratory analysis of the fill material prior to its placement.* HBA would like a rewrite.
2. *The location of mailboxes and similar structures in the right-of-way of a public or private street shall be constructed so as to not create a hazard to the public and shall be constructed pursuant to standards of the Ohio Department of Transportation.* HBA would like this regulation to be removed because, if left up to the Post Office, they would require mailbox groups at the intersections instead of at each one of the houses to cut costs. They and their customers would prefer to have individual mailboxes.

Staff met with staff from the Prosecutor's Office, who presented several grammatical changes, and language changes that did not change the intent of the rule and regulations presented. Many of the language changes made the rules stronger.

Mr. Radachy stated there were some sections with slight intent changes and these were:

- Article IV, Section 1A, General Purpose statement covered by ORC 711.10 AND 713.23. This section was not required and conflicted with Section 2A, our general purpose, which is more in line with what ORC 711.10 says.
- *Article IV, Section B. Suitability of Land. Authority to do this was questioned and the following was read by Mr. Radachy:*

If the planning commission finds that land proposed to be subdivided is unsuitable for subdivision development due to poor drainage, flood hazard, topography, inadequate water supply, landslip potential, unstable subsurface conditions due to underground mining or other reasons and other such conditions which may endanger health, life, safety, or property; and, if by any public agencies concerned, it is determined that in the best interest of the public, the land should not be developed for the purpose proposed, the planning commission shall not approve the subdivision unless adequate methods for solving the problems are advanced by the applicant. For major subdivisions, a written statement by the applicant may be required by the planning commission describing characteristics of the development site, such as bedrock, geology and soils, topography, flood prone areas, existing vegetation, structures and road networks, visual features, and past and present use of the site.

- Article IV, Section 3 I 2, Rights-of-Way. It was stated to either create a formula or delete the regulation that requires changes from 50 to 60 feet ROW in a uniformed manner. The

original language can be varied or kept as 60 feet connecting to 50 feet as currently done.

1. The right-of-way shall be not less than sixty (60) feet and shall be measured from lot line to lot line and shall be sufficiently wide to contain the pavement, curbs, sidewalks, utilities, graded areas and shade trees.

2. The right-of-way of a new street that is a continuation of an existing street shall in no case be continued at a width less than that of the existing street. If

the right-of-way is smaller than sixty (60) feet, it shall be increase to sixty feet in a uniform manner.

- Article IV, Section 5 and Article V, Section 3 conflict. Article IV, Section 5 allows the Planning Commission to require sidewalks: in a subdivision with an average frontage of 100 feet or less, sidewalks may be required on both sides of the road; if the average frontage is greater than 100 feet but less than 150 feet, a sidewalk may be required on one side of the road; and if the average frontage is 150 feet or greater, then no sidewalks will be required. Article V, Section 3 allows the Planning Commission to require sidewalks on roads and subdivisions with a density of three units or greater or on major thoroughfares.
- Article IV, Section 8E, Soil and Erosion Control Rules. Currently, we are taking away the County Engineer as being the one who approves the rules and want it to be the County Commissioners or their assignee. The Prosecutor suggested that “assignee” should be removed because the acceptance of Soil and Water’s Control Rules provide a Commissioners’ resolution and the assignees are assigned in that resolution. It should just be the County Commissioners.
- Article V, Section 4A on easements where proper authority should be changed to a pre-determined party.

PUBLIC COMMENT

Mr. Siegel asked for comments from the audience in favor of these amendments. There were none.

Mr. Siegel asked for comments from the audience objecting to these amendments.

Ms. Connie Luhta, Concord Township Trustee, said that the Commission had the township’s comments in writing. She just wanted to emphasize the fact that the first two articles are the ones that they really object to; the other two require a little more explanation because they feel the Township’s authority is being eroded by all the comments submitted.

Mr. Lee Bodnar, Painesville Township Administrator, had a few comments that had been brought to the attention of the Township Trustees.

- Page 23 of Article IV, Item G, Street Alignment, states: “The following regulations shall

govern street alignment: Vertical profile grades shall be connected by vertical curves up to fifteen (15) percent, but only for short, straight stretches”. Define a short, straight stretch. We live in a world where people find any and every loophole they can to garner that which they desire.

- Page 12, Article V, Section 10, Improvements securities, under the second paragraph in item i, it is stated, “Three years after conditional acceptance, the applicant shall, after restoring all improvements to acceptable condition, and after all monies are paid, request that the county Engineer and/or County Sanitary Engineer perform a final inspection for acceptance.” The Township may have a representative present for this inspection. He asked for a mechanism to be placed in the Regulations of who will inform the township of such inspections. There is a history of being excluded from that list and, therefore, not being able to go on that ride. They would like that opportunity since they will be maintaining those roads thereafter.

Mr. Siegel declared there were no more comments and entertained a motion to close the public hearing.

Mr. Morse moved to adjourn the Public Hearing of August 26, 2008 at 6:55 p.m. and Ms. Hausch seconded the motion.

All voted “Aye”.